

# Housing for Older Persons Act (HOPA)

Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, prohibits discrimination in housing based on race, color, religion, sex, national origin, handicap and familial status. The Act contained a provision exempting "senior" housing from the prohibition against familial status discrimination.

Here are the requirements a facility must meet in order to qualify for the exemption:

1. At least 80 percent of the occupied units must be occupied by at least one person 55 years of age or older.
2. The owner or management of the housing facility must publish and adhere to policies and procedures that demonstrate an intent to provide housing to persons 55 years or older.
3. The facility must comply with the rules issued by HUD for verification of occupancy through reliable surveys and affidavits.



The Housing for Older Persons Act of 1995 (HOPA) amended the housing for older persons exemption against familial status discrimination. HOPA modified the definition of housing for older persons as housing occupied by at least one person 55 years of age or older per unit. It eliminated the requirement that housing for older persons have significant services and facilities specifically designed for its elderly residents. It required that facilities claiming the exemption establish age verification procedures. It established a good faith reliance defense or exemption against monetary damages for persons who illegally act in good faith to exclude children based on a legitimate belief that the housing facility was entitled to the exemption.

Here are some questions frequently asked by housing providers when attempting to meet the requirements for exemption.

- For the purposes of HOPA, what is considered a housing community or facility?
  - When we are referring to a housing facility or community, we are referring to a dwelling or a group of dwelling units that are governed by a common set of rules, regulations, and restrictions. Parts of a single building or buildings spread out across town are not eligible for the exemption. Some examples include: a condominium association; a cooperative; a property governed by homeowners or resident association; a municipally zoned area; a leased property under common private ownership; a manufactured housing community; a mobile home park.
- What are some examples of the types of policies and procedures that would demonstrate intent to provide housing for persons 55 years of age or older?
  - Written rules, regulations, lease provisions, deed or other restrictions;
  - Practices of the management of the facility used when enforcing the exemption rules;
  - Advertising used to attract prospective residents to the facility as well as the manner in which the facility is described to prospective residents;
  - The facilities age verification procedure, and its ability to produce verification of required occupancy in response to a familial status complaint.

